IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

TAX APPEAL No 151 of 2000
with
CIVIL APPLICATION No 112 of 2000
with
TAX APPEAL NO. 15O OF 2000
with
CIVIL APPLICATION NO. 111 OF 2000

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MEHSANA DISTRICT CO-OPERATIVE BANK LTD.

Versus

INCOME TAX OFFICER

Appearance:

1. TAX APPEAL No. 151 of 2000
MR SN SOPARKAR for Petitioner
MR Akil Qureshi with Mr.MANISH R BHATT for Respondent No. 1

2. CIVIL APPLICATIONNo 112 of 2000
MR SN SOPARKAR for Petitioner
MR Akil Qureshi with Mr MANISH R BHATT for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE M.S.SHAH

Date of decision: 06/12/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

With consent of the learned counsel for the parties, both these appeals are taken up for final disposal today.

2. These appeals arise from the decision dated 21.6.2000 of the Income tax Appellate Tribunal, Ahmedabad in ITA Nos. 3483 of 1997 and 410 of 1999 in respect of assessment years 1994-95 and 1995-96 respectively. The Tribunal has held that interest income of the appellant-bank on the investments made to the extent of reserve funds of the respective assessment years was outside the purview of Section 80 P (2) (a) (i) of the Income tax Act and that the exemption has,therefore, rightly been denied by the Assessing Officer. However,the Tribunal accepted the alternative contention of the assessee for deduction for proportionate amount of expenses in respect of interest on the reserve funds.

3. Both the appeals were admitted on the following substantial question of law on 20th September, 2000:

"Whether in the facts and circumstances of the case, ITAT was right in law in holding that the assessee is not eligible for deduction under section 80P in respect of interest income on its total reserve, and in holding so, ignoring its own decision as also the judgments of the Rajasthan High Court and the Supreme Court?"

4. At the time of hearing of the appeals, learned counsel for the parties agree that the controversy raised in these appeals is squarely covered by the decision dated 29th November, 2000 of this Court in ITR Nos. 48 and 49 of 1999.

5. In view of the above, we answer the question in the negative, i.e. in favour of the revenue and against the assessee.

6. The appeals are accordingly dismissed. Since the appeals are dismissed, civil applications for stay are also dismissed.

7. At this stage, Mr. Soparkar for the assessee prays for a certificate under section 261 of the Act for appeal to the Supreme Court and also prays for continuance of the ad-interim relief which was granted

earlier.

8. Since this case involves important questions of law of general importance for all cooperative banks in India, we certify under section 261 of the Act that this is a fit case for appeal to the Supreme court.

At the request of Mr. Soparkar, we continue ad-interim relief granted earlier till 10th January, 2001. We make it clear that we are only extending the ad-interim relief granted earlier.

(D. M. Dharmadhikari, C.J.)

(M. S. Shah, J.)
parekh

IMPORTANT STANZAS

1. He who in order to get reward after death bestows gifts upon strangers to the detriment of persons he is obliged to maintain, fails miserably during his lifetime and after his death.

2. She is a (true) wife who is clever'; she is a (true) wife who bears offsprings; she is a (true) wife whose life is her husband; she is a (true) wife who is faithful to her husband.

3. The wife is the husband's half; the wife is the very best of friends; the wife is the root of trivaga (i.e. dharma, artha and kaama); the wife is a friend to anyone who intends to travel happily through life.

4. Those who have a wife can perform sacred rights; those who have a wife can lead (happy) domestic lives; those who have a wife can enjoy life; those who have a wife can achieve prosperity.

5. The touch of a robe, the touch of a charming young woman, the touch of (cool) water is not so pleasing as the touch of a child (infant-son) hugged in one's embrace.

6. The faults of others, though they are as small as a mustard seed, one will notice...but one's own faults though they are as large as the bilva fruit one will not

notice though one sees them.

7. The desire is never suppressed by the enjoyment of the object desired; it only becomes stronger as fire is strengthened by clarified butter.

8. Only between two persons who have equal wealth and are of equal family can marriage be concluded and friendship exist, but not between two,one of whom is rich and the other poor.

9. For as prey is eaten by birds in the air, by animals on earth, and by fish in the water, so is a nice man exposed to danger wherever he may be.

10. One is not old because his head is gray; the gods regard one as old who, though young in years, possesses knowledge.

11. Six qualities should never be given up by a man; veracity, generosity, assiduity, benevolence, forbearance and contentment.